

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

SKYCAM, LLC, a Delaware limited liability company,

Plaintiff,

v.

PATRICK J. BENNETT, an individual, and
ACTIONCAM, LLC, an Oklahoma Limited
Liability Company,

Defendants.

Case No. 09-CV-294-GKF-FHM

**PLAINTIFF SKYCAM'S MOTION FOR ORDER REQUIRING JUDGMENT DEBTOR
TO APPEAR AND ANSWER CONCERNING PROPERTY AND ASSETS**

COMES NOW the garnishment Plaintiff Skycam, LLC, ("Skycam") and for its response in opposition to the claim for exemption from garnishment claimed by the garnishment defendant, Supracam, LLC. In support of its response, Skycam states as follows:

1. Judgment has been entered against Bennett and in favor of Plaintiff as follows: (a) Judgment entered September 30, 2012, [Doc. #349] in the total amount of \$584,000.00; (b) Order on Bill of Costs entered on September 30, 2013, [Doc. #403] in the amount of \$150,000.00; and (c) Order Awarding Attorney Fees Entered October 29, 2013, [Doc. #420] in the amount of \$2,000,000.00.

2. On January 27, 2015, Skycam had post judgment earnings garnishment summons issued to Supracam, LLC, General Lift, Inc., BEI, Inc., and Advantage Controls, Inc. Thereafter, Skycam served each entity and Bennett with a garnishment, including a form for Mr. Bennett to claim an exemption and request a hearing [Doc. #477].

3. Patrick J. Bennett is the President and CEO of Supracam, LLC. [See Supracam, LLC's Garnishment Answer [Doc. #481].

4. On February 2, 2015, Judgment Debtor Patrick J. Bennett, filed a claim for exemption, claiming the General Garnishee's Answer/Affidavit Calculation for Non-Continuing Garnishment of Earnings form does not properly calculate the required garnishment percentage for wages invoiced as an independent contractor. Bennett further claimed that as an independent contractor, he does not have taxes withheld by the Garnishee and thus the taxes withheld from judgment debtor are not properly accounted for in the provided calculation form.

5. Bennett claims as the Judgment Debtor he incurred a federal tax rate of 20.5% and a state tax rate of 5.0% in 2013, and is expected to incur approximately the same or higher rate in 2014 and 2015, thus the proper deduction for taxes withheld by law is 25.5% of gross earnings.

6. Bennett supplies what he believes in his opinion to be the proper form for his independent contractor status in his claim for exemption, but offers no statutory authority to support that calculation.

7. Pursuant to Okla. Stat. tit. 12 § 1170(3), the definition of "Income" or "Earnings" with respect to garnishments includes compensation as an independent contractor. Thus, Mr. Bennett's income as an independent contractor is subject to garnishment.

8. Though Mr. Bennett states that 25.5% of his net earnings be withheld as "taxes owed," he has no authority to determine this amount or change the Calculation for Non-Continuing Garnishment of Earnings form that is required by statute.

9. Okla. Stat. tit. 12 § 1172.2, places the burden of proving an exemption from a garnishment upon the judgment debtor. Section 1172.2(A) provides: "The defendant shall have the

burden of proof to show that some or all of the assets subject to the garnishment are exempt.” In the typical case, the defendant is a debtor sued in an action to collect the debt.

10. Bennett offered no evidence to prove his claims for exemption. Thus, his claim should be denied.

WHEREFORE, Plaintiff and Judgment Creditor, Skycam, LLC, requests that the Court deny Mr. Bennett’s claim for exemption and permit the statutorily required amount to be withheld from sums due to him as an independent contractor to satisfy the judgment in favor of Skycam.

Respectfully submitted,

/s/Charles Greenough

Rachel Blue, OBA #16789

Charles Greenough, OBA #12311

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ATTORNEYS FOR SKYCAM LLC

CERTIFICATE OF SERVICE

I hereby certify that on February 17, 2015, I electronically transmitted the foregoing document to the Clerk of Court using the ECF System for filing and transmittal to all parties who have entered their appearances in this case on said system, and mailed a true and exact copy to:

Patrick J. Bennett
6600 South Ash Place
Broken Arrow, OK 74011

/s/Charles Greenough
Charles Greenough